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Opinion No. 63-7
R-13
December 18, 1962

REQUESTED BY: JAMES D. HATHAWAY
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OPINION BY: ROBERT W. PICKRELL
The Attorney General

- QUESTIONS: 1. When a motor vehicle (sedan or station wagon) having signs "School Bus" attached to the front and rear of body, but not having a stop arm attached to the left of body is operated by a private party under contract to furnish bus service for schools -- may citation be issued to an operator of another vehicle for purported violations of A.R.S. § 28-857(A) (Overtaking and passing school bus)?
2. May citations be issued to an operator or owner of a motor vehicle for purported violation of A.R.S. § 28-857(C) where the motor vehicle is used under contract to furnish bus service for schools and is not equipped with a manual stop arm signal?
3. May citations be issued to the owner or operators of motor vehicles used under contract to furnish bus service for schools and not equipped with special lights required under regulations duly enacted by the Highway Department and the Board of Education?

- ANSWERS: 1. Yes.
2. Yes.
3. No.

The definition of a school bus clearly includes a sedan or station wagon operating under contract with a school to furnish bus service.

"§ 28-141. School bus

'School bus' means a motor vehicle owned by a public or governmental agency or other institution, and operated for the transportation of children to

or from school or privately-owned and operated for compensation for the transportation of children to or from school."

The fact that a school bus does not carry a stop arm as required in A.R.S. § 28-857(C) does not preclude a violation of A.R.S. § 28-857(A) by a motor vehicle operator who fails to stop upon meeting a school bus which has stopped on the highway for the purpose of receiving or discharging school children. Such a violation is a misdemeanor. A.R.S. § 28-1031.

"§ 28-857. Overtaking and passing school bus

A. The driver of a vehicle upon a highway upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching the school bus and shall not proceed until the school bus resumes motion, or until signaled by the driver to proceed. . . ."

The individual receiving the citation is advised of the fact that a motor vehicle is a school bus by the presence of a "School Bus" sign thereon and is advised of the purpose of the stop by the presence of children. The use of the stop arm is an additional signal afforded for the safety of the children and may further advise a motorist of the purpose of the stop. When a school bus is stopped and the stop arm is elevated, but not for the purpose of receiving or discharging school children, no violation of A.R.S. § 28-857(A) can occur.

The requirement of a stop arm is imposed on the operator or owner of the school bus. The owner must equip a school bus with a stop arm and an operator must not operate a school bus without a stop arm.

"§ 28-857. Overtaking and passing school bus

. . . .
C. Every bus used for the transportation of school children shall be equipped with a signal with

the word "Stop" printed on both sides in black letters not less than five inches high on a yellow background. The signal shall not be less than twenty inches long and shall be manually operated by the operator of the school bus in such manner as to be clearly visible from both front and rear when extended from the left of the body of the bus. It shall be displayed only when passengers are being received or discharged from the bus. . . ."

Consequently, if the school bus in Question 2 is not equipped with a stop arm signal or is operated without a stop arm signal, as required by A.R.S. § 28-857(C), a misdemeanor has been committed. A.R.S. § 28-1031.

This is true despite the fact that the Highway Commission and the State Board of Education in 1961 passed regulations pursuant to A.R.S. § 28-900 that on their face contradict A.R.S. § 28-857(C). On page VI of the Arizona Minimum Standards for School Buses, 1961 Revised Edition, is found the following language:


" . . . Small vehicles of the passenger car type having a capacity of not more than eleven pupils and the driver whether school owned or privately owned and operated under contract need not be painted school bus chrome or equipped with signs and signals peculiar to school buses. A removable sign may be attached both front and rear on such vehicles reading 'School Bus,' during the time such vehicles are being used for pupil transportation. Such sign shall be attached to the vehicle as high as possible and be lettered with standard black letters 6 inches high on a school bus chrome background."

But A.R.S. § 28-900 only allows the Highway Commission and the State Board of Education to pass regulations not inconsistent with the chapter that includes the above statutory section. Therefore, a citation may be issued to the owner of a motor vehicle who fails to equip his motor vehicle with a stop arm signal when the motor vehicle is used as a school bus or to an operator of a motor vehicle who drives a school bus not equipped with a stop arm.

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The requirement of special lamps and lights is imposed on operators or owners of school buses by regulations (Lamps and Signals - pages 32 to 35 of Arizona Minimum Standards for School Buses, 1961 Revised Edition) that have been duly enacted by the Highway Commission and the Board of Education. A.R.S. § 28-900. A violation of the regulations enacted under A.R.S. § 28-900 is not a misdemeanor. Under A.R.S. § 28-900 every person employed under contract by a school district is subject to such regulation but a violation is merely called misconduct, making a violator subject to removal from employment for breach of contract after notice and hearing. The regulations themselves are stated not to apply to "small vehicles of the passenger car type having a capacity of not more than eleven pupils." American Minimum Standards for School Buses (supra), page VI.

Citations, therefore, may be issued to motor vehicle operators who fail to stop on meeting a school bus stopped on a highway for the purpose of discharging or receiving school children, to school bus operators who drive school buses not equipped with signal arms, and to school bus owners who permit the operation of school buses not equipped with stop arms. Citations may not be issued to school bus operators and owners who fail to comply with special school bus lighting regulations enacted by the Highway Department and the Board of Education.


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